

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
MARCH 10, 2003
HRL AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:39 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Vic Peterson, Building Official; Paul Adams, Parks and Recreation Director; Claudio Sanchez, Acting City Engineer; and Lisa Pope, City Clerk

FLAG SALUTE

Building Official Peterson led the Pledge of Allegiance.

CLOSED SESSION REPORT

Public Comment on Closed Session Items

None.

City Attorney Hogin reported that the Council met in closed session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
2. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
3. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
4. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
5. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641
Related cases (city named as a party in interest):
 - a. Rick Appel v. California Coastal Commission

- Case No. SC074658
- b. Ralph Herzig v. California Coastal Commission
Case No. SS011382
- c. Land Use Preservation v. California Coastal Commission
Case No. SS011388
- d. Riverview Farm Associates v. California Coastal Commission
Case No. SS011383
- e. Brian Sweeney v. California Coastal Commission
Case No. SS011387
- f. Trancas-PCH v. California Coastal Commission
Case No. SC074640
- g. Tuna Ridge v. California Coastal Commission
Case No. SC011381
- h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
- 6. City of Malibu, et al. v. County of Ventura, et al. (Ahmanson Ranch)
Ventura County Superior Court Case No. CIV 216938
- 7. City of Malibu / Geffen v. Access for All / Coastal Commission et al
Los Angeles County Superior Court Case No. BC277034
- 8. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900
- 9. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. 00-10255-FMC(JWJx)
- 10. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
- 11. Malibu Township Council v. City of Malibu II (28-car garage)
Los Angeles County Superior Court Case No. BS079965
- 12. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
- 13. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
- 14. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
- 15. Sweeney et al v. California Coastal Commission (LCP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011387
- 16. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
- 17. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
- 18. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794
- 19. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753,
BS080758, BS080791
- 20. Trancas PCH v. City of Malibu

Los Angeles County Superior Court Case No. SC075668
Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

21. Number of Cases: 2

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

22. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer
23. Property APN: 4458-021-005 and 4458-022-012
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Tom Fitzpatrick

City Attorney Hogin reported that the Council met in Closed Session at 5:30 p.m. She stated the Council discussed several but not all items listed on the Closed Session agenda and took no reportable action.

APPROVAL OF AGENDA

Councilmember House requested adjourning in gratitude to HRL for use of their auditorium for Council meetings.

MOTION

Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to approve the agenda adjourning with gratitude to HRL. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on February 27, 2003.

ITEM 1 CEREMONIAL/PRESENTATIONS

- A. Presentation of City tile to Captain James N. Glazar for his service on the Los Angeles County Sheriff's Department

Mayor Jennings presented a City tile to Captain James N. Glazar for his service on the Los Angeles County Sheriff's Department.

Captain Glazar thanked the City Council for the award.

- B. Recognition of Sergeant Francis W. Kasko for his service on the Los Angeles County Sheriff's Department

Mayor Jennings presented a certificate of recognition to Sgt. Francis W. Kasko for his service to the City on the Los Angeles County Sheriff's Department.

C. Recognition of Sergeant Kevin B. Mauch for his service on the Los Angeles County Sheriff's Department

Mayor Jennings presented a Certificate of Recognition to Sgt. Kevin Mauch for his service to the City on the Los Angeles County Sheriff's Department.

D. Recognition of Lieutenant Kendell S. Fowler for his service on the Los Angeles County Sheriff's Department

Mayor Jennings presented a Certificate of Recognition to Lt. Kendell S. Fowler for his service to the City on the Los Angeles County Sheriff's Department.

E. Recognition of Mark Olson for his service as the Malibu Chamber of Commerce 2002 President

Mayor Jennings indicated Mark Olson was unable to attend but he would present a commendation to Mr. Olson at the Chamber Installation Dinner.

F. Commendation to HRL for allowing the City to use their facilities for City Council and Planning Commission meetings

Mayor Jennings presented a City tile to Frank Brady of HRL. Mr. Brady thanked the City for the recognition and wished the City well.

Councilmember House thanked and commended Sgt. Mauch.

Councilmember Stern thanked Captain Glazar and Sgt. Mauch for their service to the City.

ITEM 2A. PUBLIC COMMENTS

Chris Hasselquist, incoming President Elect Chamber of Commerce, announced the Chamber Installation Dinner on March 21, 2003. He invited the Council to attend the Business Roundtable meetings on the first Friday of each month. He announced the newly formed Government Affairs Committee.

John Mazza discussed the proposed consolidation of the Building Safety and Planning Departments. He discussed the importance of recruiting a first class Planning Director.

B. COUNCIL COMMENTS

Mayor Pro Tem Kearsley discussed the reorganization of City departments. He stated he received an email from the City's adopted company in Camp New Jersey in Kuwait. He discussed the City's letter writing campaign to the soldiers.

Councilmember Stern congratulated Malibu Little League on its Opening Day.

Councilmember Barovsky echoed comments by Mayor Pro Tem Kearsley regarding the reorganization of the Planning Department. She discussed a letter in the newspaper regarding Malibu emptying wastewater into the Lagoon. She requested staff review and respond to the letter, either by letter to editor or press release.

Mayor Jennings stated a letter to the editor might not be the most appropriate means.

CONSENSUS

By consensus, the Council directed staff to prepare a press release or summary of City actions regarding the City's efforts related to wastewater.

Councilmember House indicated she attended the Malibu Little League Opening Day and she congratulated the Little League. She discussed the Pier Concessionaire Selection Committee meeting at which they had selected Malibu Limited Partners.

Mayor Jennings stated he attended Little League Opening Day. He stated he attended a meeting detailing the current state of affairs in the public school system. He also attended a meeting of the Malibu Lost Hills Disaster Communications Services at which Malibu received a certificate for their support. He announced the City's 12 year Anniversary Celebration on March 28, 2003. He discussed the City's Grant Writing Workshop on March 29, 2003 at Pepperdine University.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.A.1. and 3.B.4. were pulled by the public.

CONSENSUS

By consensus, the Council waived its rules of procedure to allow speakers two minutes to discuss Item No. 3.A.1.

MOTION

Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to approve Item Nos. 3.B.1, 3.B.2, 3.B.3., and 3.B.5. The motion carried unanimously.

The Consent Calendar consisted of the following items:

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 21371 through 21478 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 279 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$558,571.51. ADP payroll voucher numbers 2001150 – 2001166 were issued in the amount of \$105,288.49.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on January 13, 2003 relating to the Pacific (Trancas area) Fire

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

5. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the quarterly City Council meeting held on January 29, 2003 and the regular City Council meeting held on February 24, 2003.

The following items were pulled from the Consent Calendar for individual consideration:

A. Previously Discussed Items

1. Revised Film Permit Procedures

Staff recommendation: Approve the revised film permit procedures.

Diana Klein discussed reality television shows and their unobtrusive nature. She discussed the requirements for obtaining 100% approval signatures for extended filming. She suggested requiring 100% approval by adjacent neighbors and 80% approval from the remaining residences within the 500 foot radius.

James Fitzpatrick, Motion Picture Association, discussed the restriction on helicopter landings. He suggested a distinction between residential and commercial sites. He expressed concern regarding the appeal process.

Todd Christeasen, location manager, requested the Council consider requiring 100% of contiguous signatures with 85% for the remainder of 500 foot radius.

Cameron McIntyre, California Film Commission, provided suggested modifications to the guidelines and submitted a letter on behalf of the California Film Commission.

Albert Stern expressed concern regarding the ordinance and indicated it was detrimental to the community. He provided proposed modifications to the guidelines. He discussed income received by the schools from film shoots.

MOTION Councilmember House moved and Councilmember Stern seconded a motion to approve the revised film permit procedures as amended. The motion carried unanimously.

B. New Items

4. Resolution of Intent Regarding Zoning Text Amendment to Consider Deletion of Code Provision that Bars Zoning Applications Where a Code Violation Exists on the Subject Property

Staff recommendation: Adopt Resolution No. 03-12, initiating a zoning text amendment to consider changes to Section 17.04.120 of the Malibu Municipal Code and directing the Planning Commission to schedule a public hearing regarding barring the processing of zoning applications for properties where code violations exist on the property.

John Mazza addressed the Council in opposition to the proposed resolution. He stated the Code section was necessary to provide a check system for violations.

Norm Haynie respectfully disagreed with Mr. Mazza's comments. He provided an example of the need for deletion of the Code section. He stated the ability to make an application should be considered strictly on the merits of the application. He indicated support for the proposed resolution.

City Attorney Hogin explained the process for considering a zone text amendment.

Councilmember Barovsky indicated support for proceeding with a public hearing.

Mayor Pro Tem Kearsley indicated support for the resolution.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to adopt Resolution No. 03-12 as revised. The motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Privatization of Zumirez Drive (South of Wildlife Avenue)

Staff recommendation: Hold a public hearing and adopt Resolution No. 03-11 ordering the vacation of public street easements on Zumirez Road (south of Wildlife Avenue) in the City of Malibu.

Acting City Engineer Sanchez presented the staff report.

William Nelson indicated opposition to the street vacation.

Robert Adler stated all but one signature was obtained approving the street vacation. He urged the Council to adopt the resolution.

Ryan Embree expressed concern regarding the vacation of Zumirez Drive.

Gary Rector discussed excessive speed on Zumirez Drive. He indicated support for privatization.

Mayor Jennings asked how privatization would help reduce speed. Mr. Rector stated speed humps could be installed or the gate could be closed.

Mayor Pro Tem Kearsley stated it was his understanding that utility easements would not be affected. He indicated support for the resolution.

Councilmember Stern stated the parking restrictions and access would not change. He stated the action would merely allow the residents to take over street maintenance. He indicated support for privatization.

Councilmember Barovsky expressed concern regarding obtaining approval from the residents. Mr. Adler explained that all homeowners except one signed the petition indicating approval of the street vacation. City Manager Lichtig stated she had not verified the information provided by Mr. Adler. Councilmember Barovsky stated she wanted to make sure that all residents had been notified. Councilmember Barovsky asked if a deed restriction for a gate could be included. Mr. Adler indicated the Coastal Commission would not allow a gate.

Councilmember House asked the implications of the public using a private road. Mr. Adler explained that the street vacation would allow maintenance and repairs when necessary but would not impact the public.

Mr. Adler explained that they would be forming a road association.

Mayor Jennings asked the legal status of a road owners association and how they could create a legal obligation for road maintenance. City Attorney Hogin stated she was not an expert in that area. Mayor Pro Tem Kearsley explained the road owners association in his neighborhood.

Mayor Jennings stated Mr. Adler and Mr. Mazza represented that 100% of the signatures were obtained. Mr. Adler indicated he did not make that representation. Mayor Jennings indicated he would only support street vacation if a deed restriction prohibiting a gate was included.

Councilmember House suggested deferring a decision in order to confirm that all homeowners had signed the petition.

MOTION Councilmember Barovsky moved and Councilmember House seconded a motion to continue the hearing to March 24, 2003 to determine whether all property owners have been notified and approved or disapproved of the street vacation. The motion carried unanimously.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

A. Call for Honorees – Older Americans Recognition Day
Staff recommendation: Present and consider nominations for an Outstanding Older American.

City Clerk Pope presented the staff report.

MOTION Mayor Pro Tem Kearsley moved and Councilmember House seconded a motion to nominate Les Moss. The motion carried unanimously.

ADJOURN At 7:55 p.m., Councilmember Barovsky moved and Councilmember House seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of the City of Malibu
on April 14, 2003.

KENNETH KEARSLEY, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)